

BLAND, C., 29th July, 1828.—There seems to be no doubt, where the property in litigation, or its profits are in danger of being materially injured or lost, that this Court has the power to interpose for the purpose of preventing its waste or destruction. It is upon this ground, that it grants an injunction to stay waste pending the prosecution of an action of ejectment, or any other suit to try the right. *Duvall v. Waters*, 1 *Bland*, 569. And in other cases grants an injunction or appoints a receiver to save the property in controversy from injury or loss. *King v. King*, 6 *Ves.* 172; *Atkinson v. Henshaw*, 2 *Ves. & Bea.* 85; *Ball v. Oliver*, 2 *Ves. & Bea.* 96; *Beam's Pl. Eq.* 71. Upon the same principles, where a real estate had been decreed to be sold, and the trustee appointed to make the sale, reported on oath, before he had made sale of it, that the occupying tenant, or others, were committing, or were about to commit waste, an injunction was granted to prevent it; *Clark v. Clark*, 24 *January*, 1822, per JOHNSON, *Chancellor*; because a decree for a sale to effect a partition or to pay debts virtually takes possession of the estate and vests it in the Court for the purpose of distribution. *Shewen v. Vanderhorst*, 4 *Cond. Cha. Rep.* 471. And so where the property taken under a sequestration was of a perishable nature, and was then likely soon to go to decay, it was ordered to be sold, for the benefit of all concerned, to prevent a total loss. *Wilcocks v. Wilcocks*, *Amb.* 421; *Mitchell v. Draper*, 9 *Ves.* 208.

* In cases where real estates have been sold, and the purchaser, who has been let into possession, refuses to pay the purchase money; and yet continues to hold the estate, the Court, on a bill by the vendor for a specific performance will set an occupation rent for the estate, which the vendee will be compelled to pay pending the litigation, upon the ground, that the party might recover at law for use and occupation. *Smith v. Jackson*, 1 *Mad. Rep.* 618; *Dakin v. Cope*, 3 *Cond. Cha. Rep.* 66; *Donovan v. Fricker*, 4 *Cond. Cha. Rep.* 77. And an occupation rent may be set of the estate as against a mortgagor, on a bill to have the mortgage redeemed, until the suit can be determined. *Wilson v. Metcalfe*, 1 *Russ.* 530. So too where a purchaser, under a decree of this Court, after having been let into possession, failed to pay the purchase money; and, yet continued to hold the estate, after he and his sureties had become insolvent, the Court set an occupation rent for the estate, which the purchaser, holding the possession, was compelled to pay, pending the proceedings to effect a re-sale for the payment of the balance of the purchase money. (l)

(l) *MACKUBIN v. FARRALL*.—This bill, filed on the 25th of June, 1823, stated, that the plaintiff George Mackubin, as trustee, had sold a tract of land to the defendant Walter Farrall for the sum of \$5,658.75; for the payment of which the defendant gave bond with sureties; that the defendant had paid a small